Case 8-17-75731-ast Doc 19-8 Filed 10/23/17 Entered 10/23/17 16:47:00

EXHIBIT

"H"

MORTGAGE NOTE

\$100,000.00 JULY 7, 2016

FOR VALUE RECEIVED, D & G CONSTRUCTION DEAN GONZALEZ LLC, a New York limited liability company, having a mailing address at 190 E. Sunrise Highway, Freeport, NY 11520 (hereinafter collectively referred to as "Maker"), hereby covenant and promise to pay to LITTLE DAE ENTERPRISES INC., c/o Law Office of Steven Cohn, P.C., located at One Old Country Road, Suite 420, Carle Place, New York 11514 (hereinafter referred to as "Payee"), or at such other address as Payee may designate in writing, ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and no/100 lawful money of the United States of America, together with interest thereon computed from the date hereof at the rate of Sixteen (16%) percent per annum to be paid six (6) months from the date of execution of this Note or Satisfaction of the first mortgage encumbering the property for which this Note is secured, whichever is sooner.

Maker covenants and agrees with Payee as follows:

- 1. Maker will pay the indebtedness evidenced by this Note as provided herein.
- 2. This Note is secured by a Second Mortgage of even date as this Note (the "Mortgage"), which Mortgage is a lien upon the property located at 3778 HEWLETT AVENUE, MERRICK, NEW YORK 11566 and which is more particularly described in the Mortgage. All of the covenants, conditions and agreements contained in the Mortgage expressly are incorporated by reference herein and hereby are made a part hereof. In the event of any conflict between the terms of this Note and the terms of the Mortgage, the terms of this Note shall be paramount and

shall govern.

- 3. The money underlying this Note is to be used solely towards building supplies to complete the renovations to the Property located at 3778 Hewlett Avenue, Merrick, NY ("Property").
- 4. The net proceeds of this Note (after initial disbursements i.e., recording charges, legal fee, origination fee, authorized disbursement, etc.) will be held in escrow and disbursed to the Vendor solely on the authorization, after physical inspection of the Property, by Don Lia.
- THE MAKER AND GUARANTORS ACCEPT AND ACKNOWLEDGE THAT THIS SECOND MORTGAGE SECURED AGAINST THE PROPERTY SHALL IN NO WAY IMPACT ON THE ENFORCEMENT OF THE FORECLOSURE OF THE FIRST MORTGAGE. IT IS THE PARTIES EXPECTATION THAT THE FORECLOSURE ACTION SHALL CONTINUE IN ITS ORDINARY COURSE AND ALL OF THE RIGHTS AND REMEDIES OF THE FIRST MORTGAGE ARE TOTALLY SEPARATE AND APART FROM THIS SECOND MORTGAGE AND NOTE. THE PARTIES ACKNOWLEDGE THAT THEY ARE AWARE THAT THE FIRST MORTGAGE WILL CONTINUE TO PROCEED IN ITS ORDINARY COURSE THROUGH THE COURT SYSTEM AND ANY POST JUDGMENT ACTION.
- 6. Maker shall pay a late payment premium of five (5%) percent of any principal or interest payment made more than ten (10) days after written notice of default in the payment thereof on the due date thereof, for the first event of default in any year which premium shall be paid with such late payment. This paragraph shall not be deemed to extend or otherwise modify or amend the date when such payments are due hereunder. The obligations of Maker under this

Note are subject to the limitation that payments of interest shall not be required to the extent that the charging of or the receipt of any such payment by the holder of this Note would be contrary to the provisions of law applicable to the holder of this Note limiting the maximum rate of interest which may be charged or collected by the holder of this Note.

- 7. The holder of this Note may declare the entire unpaid amount of principal and interest under this Note to be immediately due and payable upon the occurrence of any event of default under the Mortgage securing this Note, beyond any applicable notice, grace and cure periods provided for herein or in said Mortgage. Forbearance to exercise this right to accelerate the maturity of the principal indebtedness with respect to any event of default shall not constitute a waiver of said right as to any other or subsequent event of default. In the event of a default Payee is entitled to collect interest at the maximum rate permitted by law from the date of the default.
- 8. Maker, and all guarantors, endorsers and sureties of this Note, hereby waive presentment for payment, demand, protest, notice of protest, notice of nonpayment, and notice of dishonor of this Note. Maker and all guarantors, endorsers and sureties consent that Payee at any time may extend the time of payment of all or any part of the indebtedness secured hereby, or may grant any other indulgences without effecting the guarantor's obligations herein.
- 9. Any notice or demand required or permitted to be made or given hereunder shall be deeded sufficiently made and given if by personal service or by the mailing of such notice or demand by certified or registered mail, return receipt requested, addressed, if to Maker, at Maker's address first above written, or if to Payee, at Payee's address first above written. Either party may change its address by like notice to the other party.

10. This Note may not be changed or terminated orally, but only by an agreement in writing signed by the party against whom enforcement of any change, modification, termination, waiver or discharge is sought. This Note shall be construed and enforced in accordance with the laws of New York, County of Nassau.

IN WITNESS WHEREOF, Maker has executed this Note on the date first above written.

D & G CONSTRUCTION DEAN

GONZALEZ LLC

Omar Wala Sig Managing Member

Acknowledgement

STATE OF NEW YORK)

SS.:

COUNTY OF NASSAU)

On the 7th day of JULY, 2016, before me, the undersigned, personally appeared OMAR WALA SR.

personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

KATHLEEN M. WARD
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01WA5011115
Qualified in Suffolk County
My Commission Expires April 12, 2 0

GUARANTY

The undersigned Guarantor does hereby unconditionally guarantee to the Payee, the prompt payment of all amounts due on this instrument as and when the same shall become due whether by acceleration, extension or otherwise, and waive any requirement that any action be taken against the Maker or makers before enforcing this guaranty.

Guarantor waives the right to any counterclaims in the event Payee brings any action to collect under this guarantee.

Dated: July 7, 2016

DMAR WALA SR.

Residence Address:

3491 Howard Boulevard Baldwin, New York 11510

STATE OF NEW YORK)

SS.:

COUNTY OF NASSAU)

On the 7th day of July, 2016, before me, the undersigned, personally appeared **OMAR WALA SR.**

personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

KATHLEEN M. WARD
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01WA5011115
Qualified in Suffolk County
My Commission Expires April 12, 2

GUARANTY

The undersigned Guarantor does hereby unconditionally guarantee to the Payee, the prompt payment of all amounts due on this instrument as and when the same shall become due whether by acceleration, extension or otherwise, and waive any requirement that any action be taken against the Maker or makers before enforcing this guaranty.

Guarantor waives the right to any counterclaims in the event Payee brings any action to collect under this guarantee.

Dated: July 7th, 2016

BURT BRIAN CORRIETTE a/k/a BRIAN B. CORRIETTE

Residence Address:

3373 Bay Front Drive

Bay Colony, New York 11510

STATE OF NEW YORK) COUNTY OF NASSAU)

> On the 7th day of July, 2016, before me, the undersigned, personally appeared BURT BRIAN CORRIETTE a/k/a BRIAN B. CORRIETTE

personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument

> KATHLEEN M. WARD NOTARY PUBLIC-STATE OF NEW YORK NOTARY PUBLIC No. 01WA5011115

Qualified in Suffolk County My Commission Expires April 12, 2 70 (

KATHLEEN M. WARD NOTERY PUBLIC-STATE OF NEW YORK NO. 01WAB011115 Qualified in suitolk County My Commission Explice April 12,28 (C)